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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,046	04/11/2006	Eckhard Kruse	1034193-000042	4285
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EXAMINER NICKERSON, JEFFREY L.				
ART UNIT 2442		PAPER NUMBER		
NOTIFICATION DATE 05/27/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/562,046

**Applicant(s)**

KRUSE ET AL.

**Examiner**

JEFFREY NICKERSON

**Art Unit**

2442

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 11 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 112, 2<sup>nd</sup> paragraph of claims 21-36.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: 21, 22 and 24-36  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

/Andrew Caldwell/  
 Supervisory Patent Examiner, Art Unit 2442

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant's traversal of the objection to the drawings has been considered and found unpersuasive. The outstanding objection to the drawings are hereby maintained in view of 37 CFR 1.84(o), which states "Suitable descriptive legends ... may be required by the examiner where necessary for understanding of the drawing".

The outstanding objections to the specification are hereby withdrawn.

The outstanding objections to the claims are obviated and hereby withdrawn.

Applicant's arguments traversing rejections under 35 USC 103(a) have been fully considered but are found unpersuasive. Applicant argues the combined teachings of Barker, Panikatt, and Kampe fail to render obvious the following limitation found within independent claims 21 and 27:

"logging possible events in a client event service for the purpose of initializing or updating the client".

Applicant's arguments are unpersuasive and the examiner respectfully disagrees. Barker teaches the use of a client interface that indicates and is updated with the status of possible, real-time alarm notifications regarding network elements (Barker: col 4, lines 18-55). Barker further teaches that the client may register for status updates/notifications/events/alerts/etc. Therefore, the combined teachings provide for the above-argued limitation.

Applicant argues the combined teachings fail to render obvious the following limitation found within independent claims 21 and 27: "logging possible events in a server event service for the purpose of initializing or updating the server". Applicant states the rejection of this limitation is vague and that "various EMS server subcomponents" does not map to applicant's server event service.

Applicant's arguments are unpersuasive and the examiner respectfully disagrees. Other than functionality performed by the "server event service" as recited in the claim language, the examiner sees no arguments or evidence presented by applicant that indicates the server event service is any different than the functionality performed by Barker's EMS server, which is made up of multiple subcomponents. Barker clearly teaches the EMS server creating and maintaining SNMP traps for logging network element notifications/alerts and presenting the results to the client (Barker: col 4, lines 37-55). Therefore, the the combined teachings provide for the above-argued limitation.

Applicant's arguments that Barker fails to teach the client application not communicating with the server application are not found within the claim language and therefore found unpersuasive. Applicant should bear in mind that the rejection was made based on the combined teachings of the references and that a piecemeal analysis of what the references don't teach individually is rarely persuasive.

For reasons stated above and those presented in the Final Rejection dated 10 December 2008, the rejections of claims 21-22 and 24-36 are hereby maintained.